

Exhibits:

- A. Ndunda Declaration
- B. Fields Affidavit
- C. Aipperspach Affidavit
- D. Brown Affidavit
- E. Savage Rumbaugh Affidavit
- F. Beck Affidavit
- G. Coxe Affidavit

REPUBLIQUE DEMOCRATIQUE DU CONGO
MINISTERE DE LA RECHERCHE SCIENTIFIQUE



CONSEIL SCIENTIFIQUE NATIONAL
SECRETARIAT PERMANENT
C/o Centre de Recherches Géologiques et Minières.
44, Avenue de la Démocratie
KINSHASA/GOMBE

Kinshasa, July 19, 2010

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

IOWA PRIMATE LEARNING SANCTUARY d/b/a GREAT APE TRUST)	Case No. 10-552
)	
Plaintiff,)	
)	
v.)	
)	
ZOOLOGICAL FOUNDATION OF GEORGIA, INC. d/b/a ZOO ATLANTA,)	DECLARATION OF
DEMOCRATIC REPUBLIC OF CONGO,)	<u>Nicolas MWANZA NDUNDA</u>
JAPAN MONKEY CENTRE INSTITUTE)	
AND MUSEUM OF PRIMATOLOGY, and)	
SUE SAVAGE-RUMBAUGH, Ph.D.,)	
)	
Defendants.)	

NICOLAS MWANZA NDUNDA, Ph.D, under penalty of perjury, attests as follows:

In the concern to both illuminate the authorities of our country and to protect the lives of bonobos, I find the primates found at the Iowa Primate Learning Sanctuary, d/b/a Great Ape Trust ("the Trust") in Des Moines, Iowa, USA which moreover until proven to the contrary are property of the DRC, I thus come to give you all, the few points which I still know regarding this history of the export of our heritage to the United States.

I. Since the beginning of this affair, I functioned as the Director General of the Center of Research in Ecology and Forestry ("CREF"), actually researcher in the domain of Great Apes. The Center is under the Ministry of Education and Scientific Research of the

Democratic Republic of the Congo ("DRC"), a sovereign nation that celebrated its 50th anniversary of independence on June 30, 2010. I have held this position since January 1994. I am also on the Advisory Council of the Bonobo Conservation Initiative based in Washington, D.C. As such I am fully familiar with the facts and circumstances giving rise to this action. The facts alleged herein are based on personal knowledge, except where they are alleged upon information and belief.

2. I am up to speed on the summons and original complaint regarding the judicial documents pertaining to the litigation between the Iowa Primate Learning Sanctuary, d/b/a Great Ape Trust ("the Trust") in Des Moines, Iowa, USA, which have been sent to the Foreign Ministry of the DRC, and I fully understand the necessity of the DRC to give a rapid response to these official documents. Nevertheless, I consider that the Minister who is properly indicated to receive these documents is the Minister of Scientific Research. Inasmuch as I am the Permanent Secretary of the National Scientific Council, appointed by the Minister. I respectfully suggest that all acts, legal procedures, and documents relating to this affair be sent to his Excellency the Minister of Scientific Research, who depending upon need will coordinate with us regarding this dossier. 4. I understand that the original complaint seeks a determination as to the rightful owner of two bonobos, Matata and Maisha, now residing under the protection of the Iowa Primate Learning Sanctuary, d/b/a Great Ape Trust ("the Trust") in Des Moines, Iowa, USA, as among several claimants: Zoo Atlanta, Dr. Sue Savage-Rumbaugh, and the Japanese Monkey Centre, as well as plaintiff, the Trust. DRC intends to answer that interpleader complaint in due course. I further understand that Zoo Atlanta has filed an interim motion urging the appointment by this Honorable Court of a receiver purportedly for the purpose of safekeeping of the bonobos pending a final determination as to ownership, and that, curiously, it has nominated for this purpose the Milwaukee Zoo, which upon information and belief, in actuality has been the principal advocate since 2007 for the permanent relocation of Matata and Maisha from the Trust to that very same Zoo, principally for breeding purposes.

On behalf of the DRC, I propose that DRC opposes the appointment of Milwaukee Zoo as receiver, for these reasons:

- First, Matata remains the property of the DRC, not Zoo Atlanta, as has been falsely alleged by Zoo Atlanta;

- Second, Matata is the last survivor of five bonobos lent to the United States in 1975 for research purposes, and not breeding, and certainly not for display at a public zoo such as the Milwaukee Zoo. At least until this lawsuit is completed, DRC respectfully insists that Matata -- as well as her son, Maisha -- remains in the care of the Trust and the scientists there, including Dr. Savage-Rumbaugh, who has had custody of Matata almost continuously since 1975 and of Maisha since his birth in or about 2000, and who has been engaged in the non-invasive research with these and other bonobos that was intended by the original loan of Matata to the United States.

- Third, Matata is both elderly and precious. The risks to her health associated with her physical transfer to the Milwaukee Zoo as temporary receiver; the risks to her well-being from being separated for the first time from virtually her entire family in captivity and placed on display, at a strange location, for the first time in her life; the risks to her well-being should Milwaukee Zoo be tempted to induce Matata to breed while in its charge; and the potential further risks to her safety and health were she to be returned to the custody of the Trust or shipped to yet another location once this Honorable Court resolves the issue of ownership, represents a needless and excessive physical risk to Matata and Maisha and thereby places the "property" here at issue in serious jeopardy.

- Fourth, the essential research on which DRC's agreement to loan Matata to the United States was premised, is continuing at the Trust: in contrast there can be little if any risk to Matata by retaining her in that research environment pending the final outcome of this matter, and that is DRC's strong preference.

4. There is one thing, however, I agree on with Atlanta Zoo: the assertion that Matata, and indeed Maisha too, are "priceless", especially Matata, because of her singular status as the sole survivor of five bonobos caught in the wild in what was then the country of Zaire and lent to the United States in 1974, and as the matriarch of what is now three generations of bonobos residing in the United States, at the Trust, a colony that has been the subject of the research upon which the DRC loan of Matata to the United States was originally premised. Were Matata for any reason to suffer injury or death as a consequence of her temporary transfer to Milwaukee Zoo, the loss would be irreparable and wholly unjustified.

The Original Loan of Matata by DRC to the United States in 1974-75

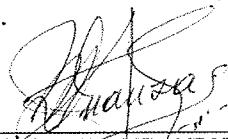
5. There is no dispute that Matata was taken to the Yerkes Center for Primatological Research at Emory University in Georgia ("Yerkes") from Zaire in 1975, where she had been captured in the wild at five or six years of age, under a 1974 loan agreement with the government of Zaire. (See Exhibit A to Complaint) The objective of the loan agreement was to determine whether or not *Pan paniscus* -- bonobos -- was a distinct species with a different hormonal profile than *Pan troglodytes* -- chimpanzees. This initiative was undertaken by the U.S. National Academy of Sciences ("NAS"). Upon information and belief, special dispensation was received (by NAS) to remove an individual from a species endangered in its country of origin, and further this authorization was given with the understanding that, at a time to be determined, Matata would be returned to Zaire (today the DRC) and that any offspring would remain in the United States. Thus Matata remained the exclusive property of the Congolese government. A complete eyewitness account to this early history of Matata is provided in Chapter 14 of "*The Pill, Pygmy Chimps and Degas' Horse* (Basic Books, 1992), by Dr. Carl Djerassi, Stanford University, an official with the National Academy of Sciences who was involved with this initiative. Matata has been under the care and observation of Dr. Savage-Rumbaugh since 1975, and Maisha, one of Matata's offspring, has also been under Dr. Savage-Rumbaugh's care since his birth in 2000.

Zoo Atlanta Has Not Offered Any Proof That Zaire or DRC Transferred or Donated Ownership of Matata To Zoo Atlanta, To Yerkes or To Any Other US-Based Institution

6. Neither the complaint nor Zoo Atlanta's Answer to the Complaint, nor its motion to appoint a receiver, presents any colorable evidence that Zaire or DRC ever transferred ownership or donated Matata, to Zoo Atlanta, to Yerkes or to any other entity or person in the United States. Furthermore, I have caused a search of the records of the Ministry of Science in this connection and there is no such record or document of such transfer in existence. It is my understanding that Zoo Atlanta is basing its claim to ownership of Matata (and Maisha) on an agreement with Yerkes dated April 25, 2000 (Exhibit C to Complaint) whereby Yerkes purported to "donate" Matata to Zoo Atlanta. Of course this agreement presupposes that Yerkes had acquired a legally cognizable ownership interest in Matata from DRC or Zaire. I state

categorically, upon information and belief, that DRC never transferred its ownership interest in Matata to Yerkes, nor sanctioned the 2000 "donation" by Yerkes to Zoo Atlanta, nor otherwise renounced its ownership of Matata. DRC must reserve all rights against Yerkes in this regard; and we respectfully insist that Zoo Atlanta put forward proof that Yerkes in fact owned Matata at the time of the purported donation. Until it does so, the receivership motion should not be entertained.

In the hope that my statements will help to fix the views of each other, I beg you to accept, Mr. Ted Townsed, the expression of my patriotism.



Nicolas MWANZA NDUNDA
Director of Research

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

IOWA PRIMATE LEARNING
SANCTUARY d/b/a GREAT APE
TRUST,

Plaintiff,

v.

ZOOLOGICAL FOUNDATION OF
GEORGIA, INC. d/b/a ZOO ATLANTA,
DEMOCRATIC REPUBLIC OF CONGO,
JAPAN MONKEY CENTRE INSTITUTE
AND MUSEUM OF PRIMATOLOGY,
and SUE SAVAGE-RUMBAUGH, Ph. D.,

Defendants.

Case No. 4:10-cv-00052

AFFIDAVIT OF
WILLIAM FIELDS

I, the undersigned, William Fields, do hereby depose and state as follows:

1. I am currently the Executive Director, Director of Scientific Research, and Program Director at the Iowa Primate Learning Sanctuary d/b/a Great Ape Trust ("Trust"). I have worked at the Trust since 2005 and have previously held the positions of Research Associate, Associate Program Director, and Director of Bonobo Research.

2. My responsibilities include among other things, overall oversight of the operation of the Trust facility in which seven bonobos, including Matata and Maisha, reside, and the research that is conducted there.

3. I have been involved in the care of and research with Matata since 1997 and Maisha since his birth in 2000.

EXHIBIT

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4. The Trust is a scientific research facility for the study of cultural, cognitive and communicative characteristics and capabilities of apes. Matata has participated in research continuously since 1974 and Maisha has participated since 2000. The current research programs in which they participate are part of a multi-million dollar, multiple year research program. The current research has evolved from and builds upon the programs in which Matata and Maisha have participated throughout their lives. Funding for these programs has been provided by the National Institute of Child Health and Development ("NICHD"), which is part of the National Institute of Health, and various private foundations. A list of publications arising out of this ongoing research is attached as Ex.1.

5. The bonobos moved to the Trust from the Language Research Center at Georgia State University in 2005.

6. At the Trust, the bonobos reside in a 13,000 square foot facility that was designed specifically to accommodate their lifestyle. There are areas where the bonobos can interact with one another in large or small groups, and areas where the bonobos can be alone if they choose to do so. The bonobo building is surrounded by 200 acres of water, trees and grass. The bonobos have a large, secure, area where they can spend time outdoors and can visually access the surrounding natural environment. Inside the building, there are complete air exchanges 7 times per day. The facility features natural light. The floors are heated.

7. The bonobo building has its own kitchen where the staff prepares fresh food for the bonobos on a daily basis. The bonobos' diets are designed by the Trust's veterinarians for each one of their individual needs.

8. The veterinarian of record for the Trust's bonobos is Dr. Bobby Brown, who is the Director of the Laboratory Animal Health Division at Auburn University College of Veterinary Medicine. Clinical veterinary care is provided by Dr. Robert King, Ph.D., DVM, who is a professor at the Iowa State University, School of Veterinary Medicine. Dr. King makes clinical rounds at the facility two times per month. The bonobos are in excellent health. The bonobos, including Matata and Maisha, cooperate with their examinations when asked to present body parts for examination or to take medication.

9. The Trust provides members of the public access to the bonobo building, on occasion, for educational purposes (for example, the Trust is involved in a program with Des Moines Public Schools that allows middle school students to visit the Trust and learn about the bonobos and the research that is being done at the Trust.) The Trust does not, however, place the bonobos who reside there on display. There are no open "visiting" hours. Members of the public visit only in connection with scheduled educational or community events. The bonobos are not required to be viewed by or to interact with visitors and may chose to remain in private areas of the facility if they choose to do so.

10. Because it receives research funding from the federal government, the Trust is subject to oversight by and the comprehensive regulations of the Office of Laboratory Animal Welfare ("OLAW"), a division of the National Institute of Health ("NIH").

11. OLAW requires that the Trust have a local Institutional Animal Care and Use Committee ("IACUC"). That committee is made up of veterinarians, university faculty members who specialize in fields related to the research work of the Trust, and members of the public. It conducts inspections of the Trust facilitates every six months to ensure that the

Trust's facilities, standard operating procedures, operations, and ape welfare are compliant with OLAW requirements. The IACUC must also approve all research to be performed at the Trust, including all protocols for the research.

12. The USDA inspects the Trust yearly. The USDA inspections of the bonobo facility have been deficiency free throughout the life of the Trust.

13. OLAW also conducts periodic inspections. Following its October 6, 2009 inspection visit, OLAW complimented the Trust for the "...spirit and dedication of the staff,...well managed animal facilities,...effectiveness of the institutional practices,...program of veterinary care,...excellent behavior and scientific research program,...state of the art facility operations; [and] ... in depth involvement and excellent professional leadership." (See Exh. 5 to Aipperspach Affidavit, Exh.C).

14. Dr. Sue Savage Rumbaugh, a world renowned scientist, and expert in language development and culture, has worked at the Trust as a Scientist with Special Standing since 2008. She was employed by the Trust as lead Scientist prior to that time.

15. Dr. Savage Rumbaugh has been involved in the care of and has conducted research with, Matata continuously since 1978. She has been involved in the care of, and conducted research with, Maisha since his birth in 2000.

16. Liz Pugh, a current employee of the Trust, and Dr. Savage Rumbaugh's sister, has also been involved in the care of Matata since the late 1970's and Maisha since 2000.

17. Matata and Maisha have formed strong bonds with Dr. Savage Rumbaugh, Ms. Pugh, and myself, as we have been consistently involved in their lives as human friends for many

years. Disruption of these relationships would be stressful to both of them and would adversely impact their ability to adjust to a new environment.

18. Bonobos, both in captivity and in the wild, reside in colonies led by a female matriarch. Matata has, since the time the bonobos resided at the Language Research Center, been the matriarch of a colony that consists of her daughters Panbanisha and Elikya, son Maisha, adopted son Kanzi, and grandchildren Nyota and Teco (born on June 3, 2010).

19. Matata's last successful pregnancy was in 2000, when she gave birth to Maisha. She has had 2 miscarriages since that time.

20. It is my opinion, and the opinion of others at the Trust, that Matata should not be bred at her age. At the age of 40 years, she is an older bonobo. A pregnancy would be a significant risk to her health. There is a substantial likelihood of another miscarriage as well.

21. The Trust currently uses the "rhythm method" of birth control for the bonobos who reside there. The use of exogenous hormones for birth control was halted after we observed unwanted side effects. The safety of using such birth control for the bonobos, including not only the safety of females to whom the hormones are administered but also that of the other bonobos who come in contact with their urine, in which hormones are excreted, is unknown. Adverse impacts on the bonobos' health, including their long term reproductive health, can be successfully avoided by appropriate management practices.

22. One of Matata's pregnancies that resulted in a miscarriage resulted from an accidental breeding with a family member in 2006. Since that time, the Trust has vigorously enforced its procedures that are designed to avoid accidental impregnation of Matata or any of the other female bonobos at the Trust. No further accidents have occurred.

23. It is my understanding that Matata's daughter, Neema, who resides at the Milwaukee Zoo, was accidentally impregnated by her half brother on at least one – and possibly two occasions.

24. Moving Matata and Maisha from their family members and established social order would be extremely stressful and detrimental to them.

25. Matata, who is accustomed to being the alpha female and matriarch of her colony, would struggle to establish an "alpha" position in the existing social order in Milwaukee. While female bonobos often achieve their positions by social negotiation, Matata's manner of cultural interactions and communication are unique due to the research in which she has participated and the environment in which she has lived for the past 35 years. Her cultural manner of communication may not be effective with the bonobos in Milwaukee who have lived in a zoo environment. If that is the case, she would likely resort to fighting for position. Since she is older, has few teeth, and would be an outsider, Matata would be at a significant disadvantage and risk in physical altercations with other females.

26. Male bonobos such as Maisha are strongly supportive of their mothers. It is virtually certain that if Matata and Maisha were placed in Milwaukee, Maisha would fight with other male bonobos whose mothers are rivals of Matata in the social order. As the outsider, Matata would also be at a disadvantage and at risk in physical altercations.

27. Both Matata and Maisha would have a difficult time and would be significantly stressed by adjusting to life in a zoo environment. Neither has ever lived in such an environment. Bonobos, react to humans by attempting to communicate with and make a social connection with them. Matata and Maisha would not naturally, and have never learned to, ignore humans

who are present in their environment. Accordingly, they would experience unaccustomed disruption to their daily lives and substantial stress on a regular and ongoing basis.

28. If, as Zoo Atlanta has asserted, preservation of Matata's bloodlines is an important, urgent goal, there are many ways other than uprooting Matata and Maisha, to fulfill that goal. The Trust has semen available from unrelated males with which Matata could be impregnated. (Though the Trust has not done so due to its concerns for her health if she is impregnated.) Maisha's semen could be collected and preserved for artificial insemination of bonobos at other locations. Male or female bonobos from other locations, could visit the Trust for breeding purposes. Furthermore, a new genetic descendant of Matata, Teco (who is not inbred) was born on June 3, 2010, and can ultimately be bred to widen Matata's genetic lines. Matata's offspring, Neema, who already resides at the Milwaukee Zoo, can also be bred.

29. Based on my experience in the operation of bonobo research facilities and grant funding, it is my estimate that since 1980, Georgia State University, the NICHD, and the Great Ape Trust have expended in excess of \$60 million dollars for the support of Matata and her extended family group. To the best of my knowledge and belief, Zoo Atlanta has made no financial contribution whatsoever to the care of the bonobos.

Dated this 30th day of July, 2010.



William Fields

STATE OF IOWA

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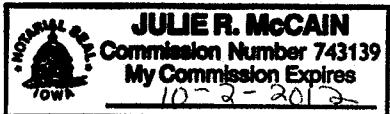
COUNTY OF POLK

BEFORE ME, the undersigned authority, personally appeared William Fields, who acknowledged himself and that he being authorized, executed the foregoing instrument for the purposes therein contained, by signing the name of the State of Iowa by himself as William Fields.

Julie R. McCain

NOTARY PUBLIC

In and For the State of Iowa



Publications in press

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

IOWA PRIMATE LEARNING
SANCTUARY d/b/a GREAT APE
TRUST,

Plaintiff,

v.

ZOOLOGICAL FOUNDATION OF
GEORGIA, INC. d/b/a ZOO ATLANTA,
DEMOCRATIC REPUBLIC OF CONGO,
JAPAN MONKEY CENTRE INSTITUTE
AND MUSEUM OF PRIMATOLOGY,
and SUE SAVAGE-RUMBAUGH, Ph. D.,

Defendants.

Case No. 4:10-cv-00052

AFFIDAVIT OF
JAMES D. AIPPERSPACH

I, the undersigned, James D. Aipperspach, do hereby depose and state as follows:

1. I am currently a Member of the Board of Directors of the Iowa Primate Learning Sanctuary d/b/a Great Ape Trust ("Trust"). I was the Director of Operations for the Trust from October 2005 through June, 2010.
2. I am familiar with the Trust's relationship with the American Zoo and Aquarium Association ("AZA"), the circumstances related to the termination of the Trust's relationship with the AZA, and the governmental oversight of ape welfare and the facilities at the Trust.
3. The Trust became a member of AZA shortly after it was established in 2005.
4. In 2007, philosophical differences arose between the research mission of the Trust and the philosophies of certain members of the AZA who sought to impose breeding and management requirements on apes residing at the Trust, including particularly Matata and

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Maisha. The AZA proposed at that time, that Matata and Maisha be moved to the Milwaukee County Zoo.

5. Over a period of many months, the Trust and AZA attempted to come to a mutually satisfactory resolution of their philosophical differences. Attached as Exhibit 1 is a copy of a communication from Trust founder, Ted Townsend, which provides pertinent background concerning the Trust, its research, and its efforts to work collaboratively with the AZA while still pursuing its scientific mission. The letter was read at a meeting involving Trust and AZA representatives in November of 2007.

6. The AZA and the Trust were unable to resolve their philosophical differences. Accordingly, on February 18, 2009, I advised the AZA that the Trust did not intend to apply for recertification as an AZA member in 2009. (Exhibit 2).

7. In August 2009, on the Trust's own initiate and without having received any request, demand, or threat from the AZA regarding its membership, Ted Townsend advised James Maddy of the AZA that the Trust had decided to withdraw from the AZA. Mr. Townsend's letter explaining the Trust's decision to let its AZA membership expire in September 2009 is attached as Exhibit 3. A copy of that letter was sent to the then Director of the Zoological Foundation of Georgia d/b/a Zoo Atlanta.

8. Zoo Atlanta's allegation, in paragraph 16 of its Application for Appointment of Receiver, that the Trust "lost its accreditation with the Association of Zoos and Aquariums," is simply not accurate. The Trust voluntarily relinquished its membership.

9. As a federally funded research facility, The Trust is subject to federal statutory and regulatory requirements promulgated by the National Institute of Health's Office of

Laboratory Animal Welfare ("OLAW"), addressing the welfare of apes who reside at the Trust. Pursuant to OLAW requirements, the Trust has an Institutional Animal Care and Use Committee ("IACUC"), made up of veterinarians, academic professionals with an interest in the research being done at the Trust, and community members, that must approve facility and research protocols for the Trust and that monitors the condition of the Trust facilities and the welfare of the apes who reside there.

10. The Trust is inspected every six months by the IACUC, yearly by the United States Department of Agriculture ("USDA"), and periodically by OLAW.

11. Inspection reports by all inspecting entities have consistently recognized the quality of the environment at the Trust. Any deficiencies noted have been minor and immediately addressed. The last USDA inspection report identified no deficiencies (Exhibit 4). The OLAW inspection report dated October 14, 2009, complimented, among other things, the "...spirit and dedication of the staff;...well managed animal facilities;...effectiveness of institutional practices;...program of veterinary care;...excellent behavior and scientific research program;...state of the art facility operations; [and}...in depth involvement and excellent professional leadership..." at the Trust. (Exhibit 5).

Dated this 23rd day of July, 2010.



James D. Aipperspach

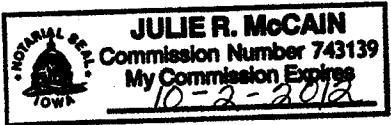
STATE OF IOWA

§

COUNTY OF POLK

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BEFORE ME, the undersigned authority, personally appeared James D. Aipperspach, who acknowledged himself and that he being authorized, executed the foregoing instrument for the purposes therein contained, by signing the name of the State of Iowa by himself as James D. Aipperspach.



Julie R. McCain
NOTARY PUBLIC
In and For the State of Iowa

Greetings to everyone interested in discussing the work of Great Ape Trust. Having fully intended to be with you in person today, I apologize for my unexpected absence, as unforeseen obligations in Washington, D.C. have commandeered my schedule. Please know I have complete confidence in Ben, Rob and Bert to represent our thinking in detail.

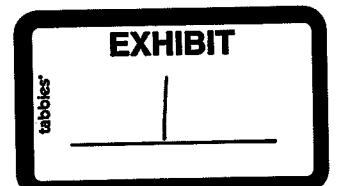
Thank you for allowing Rob to share this description of my perceptions regarding the history that has led to this meeting. It is my hope and expectation that together, you can reach clarity and agreement on a mutually comfortable path forward. A bit of history might be helpful.

Great Ape Trust was founded as a result of my first visit to the Language Research Center in Atlanta, now several years ago. Never before having heard the word Bonobo, I was astonished when Kanzi used his lexigram board to request grape juice, and then thank me for it! Since humans were supposed to be the only life form with language capability, his expression of an abstract concept, in the right way, at the right time, came as a life-altering revelation. Right then and there, I committed my life's time, energy, and resources to up scaling and empowering the inquiry into ape cognition.

Recognizing that I am not an expert in any associated field of primatology, we identified top professionals from many respected institutions to lead the creation of methods, protocols, and facilities necessary to deserve receiving the apes on which this research so totally depends. We also introduced our mission and intentions to every organization with any hint of oversight responsibility involving apes. And gee, there sure are many. (smile)

Even before any apes arrived on campus, we approached the AZA seeking membership. Our sincere desire was to work within all existing structures and expectations to allay any fears or suspicions generated by our sudden, surprise arrival on the "ape scene". Every required process and committee was put in place. When the inspection team arrived, they offered many compliments, and our membership was immediately granted. Included in our application was a full explanation of the type of research to be conducted and the methods to be employed.

Since then, our scientific purpose has been formalized. Science at Great Ape Trust seeks to understand the origins and future of culture, language, tools, and intelligence. Extending the concept a bit, Trust research is contributing to learning how a brain creates a mind. The potential in this remarkable goal has inspired scientists and academicians around the world. Today we have collaborative agreements with the Stone Age Institute, Krasnow Institute at George Mason University, the Universities of Jakarta and Okayama, Great Ape Research Institute in Japan, and just last month signed a major agreement with Iowa State University "to create the world's pre-eminent collaboration for primate studies". Drake University, Central College, and Simpson College are also participating. The Trust now has research programs underway with scientists at the University of Iowa, Grinnell, Harvard, North Carolina, UCLA, Troy College, Buena Vista, and many others. We also have initiated Great Ape Academy for



all middle school students in Des Moines, as a first step in bringing awareness and motivation to potential future primatologists.

Needless to say, the media interest is all but overwhelming. The Trust has been or will soon be featured by many of the most respected global outlets, and last month an editorial in The New York Times declared this research “more valuable than the manned space program”. Clearly, the confidence expressed by the AZA in granting membership has been rewarded. Moreover, a recent unannounced inspection by the USDA found *no* discrepancies whatsoever.

So, I hope you can understand that for us to find ourselves in a “conflict resolution” process comes as a real surprise. The additional fact that the issues in question center around “contact and bi-cultural rearing” is even more puzzling. The amazing breakthroughs emerging from research at The Trust have been generated as a direct result of trusting, personal relationships developed over long periods of time, in loving, professional, carefully designed, human/ape interactions. All research is totally voluntary and non-invasive. Such an environment is requisite to the development of language capability. Most of The Trust scientists have used some form of contact, in some way, with some apes. They all have accomplished major insights through these close, mutually enjoyable, collaborations. This is the same methodology described in our AZA membership application. Exactly why it is being challenged now is unclear.

Rob and Ben can explain the range of methods and research underway or planned at The Trust, plus our contribution to *in situ* conservation efforts. While contact in some form is common throughout the world, including many American institutions, not all Trust apes have human contact, and much fine science can be accomplished without it. But for Great Ape Trust to deliver on its profound promise, under professionally appropriate and IACUC approved conditions, direct contact with *some* bi-culturally raised apes is required and extraordinarily valuable. This leading edge research is the scientific point of our institution, and the unique distinction we respectfully ask the AZA to again acknowledge.

Friends, please know that all of us want Great Ape Trust to become known as a valuable and respected partner within AZA, SSP, TAG, et al. We offer collaboration, cooperation, and collegiality, while looking forward to growing our professional and personal relationships on behalf of apes everywhere. I reiterate my confidence that an amicable resolution will be found, putting these questions to rest forever.

Very much obliged,
Ted Townsend

February 18, 2009

Mr. Denny Lewis
Manager of Accreditation Programs
Association of Zoos & Aquariums
8403 Colesville Road, Suite 710
Silver Spring, MD 20910-3314

Dear Mr. Lewis,

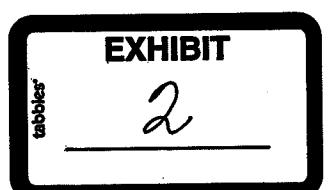
For the past five years, Great Ape Trust of Iowa (or Iowa Primate Learning Sanctuary) has been a certified member of the Association of Zoos & Aquariums. This partnership and active involvement with AZA has been a most beneficial and rewarding experience for our organization, staff members and great apes. We hope that AZA and you feel our membership has been productive and worthwhile as well.

As we approach the certification cycle deadline for 2009, we've taken time to reflect on our past association with AZA and speculate on our future. While there's been spirited debate on issues, there has always been respectful discussion. This process didn't always lead to agreement or resolution; however, it did result, we believe, in an understanding and respect for each other's positions.

That being said, we acknowledge there is a philosophical difference between AZA and Great Ape Trust on the issue of bicultural rearing. Even agreeing on a definition of the phrase has proven difficult. It hasn't been resolved in recent correspondence and likely won't be in the near future – certainly not in time for the March 1 filing deadline for our application.

That issue, over recent weeks and months, has renewed fundamental discussions among the senior management team at Great Ape Trust. More important, it has resulted in an objective, internal assessment of our organization, core values, and recommitment to our internationally recognized and applauded scientific mission.

As with many AZA members, Great Ape Trust is faced with the ongoing issues of resource development, strategic planning, scientific trajectory and campus expansion during a period of economic uncertainty. Compounding our situation is a successful but prolonged recovery from the Floods of 2008.



With these formidable but certainly manageable challenges before us, we believe the best course for Great Ape Trust is to defer our AZA application for one year with the intent to apply for certification in March 2010. We're confident this additional year will provide Great Ape Trust the necessary time to address these significant issues confronting our organization. As always, we will continue to meet the professional standards so clearly and admirably articulated by AZA.

Thanks for your time. I'm more than happy to discuss our decision further as well as our potential future relationship with AZA.

Sincerely,

James Aipperspach
Director

Cc: Dr. Paul Boyle, Senior Vice President, AZA
Ted Townsend, Chairman, Great Ape Trust

Dear Mr. Maddy;
Hello Jim!

Greetings from Great Ape Trust.

After much deliberation among our scientists and leadership team, we have come to the conclusion that our institution and the AZA should respectfully disengage. This decision is based primarily on the enduring challenges of reconciling our fundamental and accelerating research mission with the AZA's more customary focus on typical zoo operations.

As you know, The Trust has become a world leader in investigating the intellectual capabilities of Great Apes. This is the reason for its existence. We have an obligation to the broader scientific community, funding agencies, and our resident apes to ensure lasting continuity of methodology and the unique welfare environment enjoyed by our research partners. While this approach was delineated openly and completely when originally applying for membership, perhaps it was inevitable that eventually some would find it at odds with their long established views on procedures for managing captive populations not involved in such profound inquiries.

We will continue to operate Great Ape Trust with the highest standards of ape welfare, professional scientific protocols, academic rigor, transparent methodology, and peer review. We will comply fully with all requirements of OLAW, IRB, IACUC, plus state and federal laws. We remain eager to cooperate with AZA institutions in every way that our research requirements do not preclude. Indeed, generally, we will act as though our membership continues, because our admiration and respect for the AZA most certainly endures.

As you know, for the reasons outlined here and the devastating, long term impact we suffered from the Iowa floods of 2008, earlier this year we informed AZA of our intention to let our membership naturally expire next month, while a new master plan is developed. In my opinion, it is clearly in the best interests of both AZA and The Trust to affect this relatively modest shift professionally, amicably, and without unpredictable fanfare. Now or September, what's the difference? If you agree, Director of Communications Al Setka is ready to work with your PR department to craft and distribute appropriately a message reflecting a mutually respectful understanding.

Best personal regards,
Ted Townsend – Chairman

Cc Dennis Kelly, Zoo Atlanta

EXHIBIT

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United States Department of Agriculture
Animal and Plant Health Inspection Service

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Inspection Report

GREAT APE TRUST OF IOWA

Customer ID: 25761

Certificate: 42-C-0183

Site: 001

4200 E. Evergreen Avenue

GREAT APE TRUST OF IOWA

DES MOINES, IA 50320

Type: ROUTINE INSPECTION

Date: Feb-10-2010

No non-compliances seen on this inspection.

Inspection conducted with the Animal Caretakers, and the Exit Interview conducted with the Director of Finance.

Prepared By:

DAVID KAMINSKY, V.M.O USDA, APHIS, Animal Care

Date:

Title: VETERINARY MEDICAL OFFICER Inspector 5040

Date: Feb-10-2010

Received By:

SUSAN MCKEE

Date:

Title: DIRECTOR OF FINANCE

Date: Feb-10-2010

EXHIBIT

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United States Department of Agriculture
Animal and Plant Health Inspection Service

OKAMINSKY
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Inspection Report

GREAT APE TRUST OF IOWA

Customer ID: 25761

4200 E. Evergreen Avenue

Certificate: 42-R-0038

DES MOINES, IA 50320

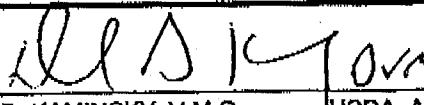
Site: 002
GREAT APE TRUST OF IOWA

Type: ROUTINE INSPECTION
Date: Feb-10-2010

No non-compliances seen on this inspection.

Inspection conducted with the Animal Caretakers, and the Exit Interview conducted with the Director of Finance.

Prepared By:

DAVID KAMINSKY, V.M.O 
USDA, APHIS, Animal Care

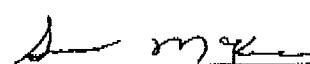
Date:

Feb-10-2010

Title:

VETERINARY MEDICAL OFFICER Inspector 5040

Received By:


SUSAN MCKEE

Date:

Feb-10-2010

Title:

DIRECTOR OF FINANCE



DEPARTMENT OF HEALTH & HUMAN SERVICES

PUBLIC HEALTH SERVICE
NATIONAL INSTITUTES OF HEALTH

FOR US POSTAL SERVICE DELIVERY:

Office of Laboratory Animal Welfare
Division of Assurances
6705 Rockledge Drive
RKL 1, Suite 360, MSC 7982
Bethesda, Maryland 20892-7982
Home Page: <http://grants.nih.gov/grants/olaw/olaw.htm>

FOR EXPRESS MAIL:

Office of Laboratory Animal Welfare
Division of Assurances
6705 Rockledge Drive, Suite 360
Bethesda, Maryland 20817
Telephone: (301) 496-7163
Faxsimile: (301) 402-7065

October 14, 2009

Reference Assurance: A4468-01

Mr. James Aipperspach
Director of Operations
Great Ape Trust of Iowa
4200 S.E. 44th Avenue
Des Moines, IA 50320

Dear Mr. Aipperspach:

On behalf of the Office of Laboratory Animal Welfare (OLAW), Dr. Wolff and I would like to thank you and your staff for the hospitality extended to us during the OLAW Division of Assurances site visit on October 6, 2009, of the Great Ape Trust of Iowa's (GATI) animal care and use program. This visit was part of OLAW's ongoing program to review the adequacy and accuracy of institutional compliance with the Public Health Service (PHS) Policy on Humane Care and Use of Laboratory Animals (Policy) as described in the Animal Welfare Assurances of PHS-supported institutions.

It was a pleasure meeting Edward P. Finnerty, William Fields, Susan McKee, and yourself. We appreciate you providing the logistical arrangements and all requested documents. We would like to thank you, as well as the other members of your staff (Tyler Romine, Rhonda Pietsch, Peter Clay, Susanne Maisel, Heather Taylor, Dr. Carol Schwartz, and Casey Pitman) for escorting us during our visit and for sharing their knowledge regarding the details of your animal care and use program. We were particularly impressed with the spirit and dedication of the staff that we met during the visit. You have built a cohesive team of specialists with expert knowledge and insight which was evident in communications throughout the day. In particular we were impressed with:

- The compliant Institutional Animal Care and Use Committee (IACUC) practices described by chair Dr. Edward Finnerty and the comprehensive, well maintained records prepared by Susan McKee.
- The well managed animal facilities overseen by Tyler Romine (Bonobo Laboratory) and Rhonda Pietsch and Peter Clay (Orangutan Laboratory); including an effective managerial chain of command, appropriate planning of staff coverage, comprehensive documentation, and husbandry practices compliant with the provisions of the *Guide for the Care and Use of Laboratory Animals*.

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- The effectiveness of the institutional practices, including communication systems and comprehensive plans for emergency management demonstrating institutional commitment to the Animal Welfare Assurance and compliance with the PHS Policy.
- The program of veterinary care under the direction of Dr. Bobby Brown and implemented by Dr. Robert King and the clinical veterinarians.
- The excellent behavior and scientific research program under the direction of Bill Fields leading to successful social housing within the Orangutan and Bonobo laboratories and a knowledgeable animal care staff skilled in training/working with the apes which has resulted in the animals willingly performing desired behaviors.
- The state of the art facility operations which were especially remarkable in that most of the structures within the animal enclosures were designed and constructed by the facilities personnel in-house. The application of ongoing preventive maintenance is also key in keeping the physical plant functioning at an optimal level.
- The in depth involvement and excellent professional leadership provided by yourself as Institutional Official. The smooth functioning of the operations at GATI and the superb level of care given to this group of special animals is in great part due to your stewardship of the program.

In our exit briefing we discussed a few items that we felt would enhance your animal care and use program. This included 1) posting of clear, updated veterinary contact information for Dr. Robert King, for clinical and after hours emergencies, and contact information for back-up veterinarians from ISU, in both the Bonobo and Orangutan facilities, 2) ensuring that all facility personnel are informed about the new contact information for the veterinarian(s), 3) noting recent changes in veterinary personnel in the IACUC meeting minutes, and in the 2009 Annual Report to OLAW due in January 2010, and 4) having facility personnel initial and note times when making entries in the Daily Observation Logbook.

We also strongly recommend the maintenance of an on site "crash cart" or equivalent storage area to ensure that necessary emergency drugs and supplies are readily available for use by veterinary personnel. Also, please remember to promptly report any adverse animal events as well as incidents of noncompliance to this Office.

Thank you once again for hosting the OLAW site visit. We wish you continued success with your program and invite you to contact us at any time if you have questions.

Sincerely,



Venita B. Thornton, DVM, MPH
Senior Assurance Officer, Division of Assurances
Office of Laboratory Animal Welfare, NIH



Axel Wolff, DVM, MS
Director, Division of Compliance & Oversight
Office of Laboratory Animal Welfare, NIH

Cc:

Edward P. Finnerty, IACUC Chairperson
Robert King, DVM
William Fields, Science Director
Susan McKee, IACUC Secretary

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

IOWA PRIMATE LEARNING
SANCTUARY d/b/a GREAT APE
TRUST,

Plaintiff,

v.

ZOOLOGICAL FOUNDATION OF
GEORGIA, INC. d/b/a ZOO ATLANTA,
DEMOCRATIC REPUBLIC OF CONGO,
JAPAN MONKEY CENTRE INSTITUTE
AND MUSEUM OF PRIMATOLOGY,
and SUE SAVAGE-RUMBAUGH, Ph. D.,

Defendants.

Case No. 4:10-cv-00052

AFFIDAVIT OF
BOBBY BROWN

I, the undersigned, Bobby Brown, DVM, do hereby depose and state as follows:

1. I am a doctor of veterinary medicine with a Masters degree in Surgery and Board Certification as a specialist by the American College of Laboratory Animal Medicine (ACLAM).
2. Since June 2006, I have served as the Director of the Laboratory Animal Health Division at the Auburn University College of Veterinary Medicine. As such, I am responsible, among other things, for the welfare of animals used in teaching and research and for compliance with all governmental and institutional requirements governing research programs involving animals at the Auburn University College of Veterinary Medicine.

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3. I have previously been employed in various positions with the National Center for Infectious Diseases at the Centers for Disease Control and Prevention, and the National Institute of Health including: Associate Director for Veterinary Public Health, Scientific Research Program (2001-2006); Deputy Director; Division of Assurances, Office of Laboratory Animal Welfare (2000-2001); Senior Assurance Officer, Division of Animal Welfare, Office for Protection from Research Risks (1997-2000); Chief, Animal Resources Branch, Scientific Resources Program (1987-1997); Chief, Research Animal Section; Scientific Resources Program (1986-1997). I have also served as Head of Laboratory Animal Medicine and Surgery at the Primate Research Institute, New Mexico State University; a professor of veterinary medicine at Auburn University and Ross University; and as a veterinarian, surgeon and Chief of Experimental Surgery with the United States Air Force.

4. I serve as a member of the Institutional Animal Care and Use Committee for the Great Ape Trust of Iowa ("Trust") and am the Veterinarian of Record for the apes who reside there.

5. I have been acquainted with and served as the veterinarian for Matata, Maisha, and the other bonobos who reside at the Trust since 2002, when they were living at the Language Research Center at Georgia State University. I assisted with moving Matata and Maisha and the rest of their family members to the Trust in 2005.

6. Matata is approximately 40 years old. Bonobos' life span in captivity is approximately 50 years.

7. Removal of Matata and Maisha from the Trust would cause enormous stress and risk of harm to both of them.

8. Matata is the matriarch and dominant member of the family group that lives at the Trust. The apes living at the Trust are all related to Matata and include her children; grandchildren; and adopted son, Kanzi, who was raised by Matata. These apes have been together throughout their lives (except for Matata's early years in the wild) and moved together from the Language Development Center at Georgia State University to the Trust in 2005.

9. It is detrimental to remove apes from their established social groups. It should not be done unless absolutely necessary.

10. Both Matata and Maisha have well established positions in the social structure of their colony. If they are moved to another colony that has its own social structure, they will experience stress, and abuse from other bonobos; while establishing themselves in the new structure.

11. For Matata, who is accustomed to being the alpha female, conflict with other females would be inevitable. While female bonobos are less likely than males to assert themselves by physical fighting, it is possible that Matata would resort to fighting in an effort to achieve the dominant position to which she is accustomed. If she is involved in physical altercations with other apes, her age and relatively few teeth would put her at a disadvantage.

12. Young male bonobos such as Maisha support their mothers in social situations. It is virtually certain that Maisha will have physical altercations with other male bonobos with whose mothers Matata is struggling for social position.

13. It would take Matata and Maisha a considerable amount of time to adapt to their new environment.

14. The stress caused to apes when they are moved can lead to physical health concerns such as heart and gastro intestinal problems. It may also disrupt their eating and nutritional status.

15. If Matata and Maisha move to a new environment, they will encounter micro flora that is different than that to which they have been exposed in their current environment. Even assuming that sanitary conditions at the Milwaukee Zoo are well maintained, the other bonobos who reside there may carry micro flora that could cause Matata and Maisha to become ill. The stress of a move will reduce their immunity and exacerbate the risk.

16. Matata will have to be sedated if she is moved. As with humans, there are inherent risks in anesthetizing bonobos. There is no predetermined dose of tranquilizer that is necessarily safe, as the risk may depend on underlying, and perhaps unknown, medical conditions. Sedation should be avoided unless it is absolutely necessary. Many aged apes have been found to have underlying cardiac disease that was not detected prior to their death.

17. The possibility that Matata may be bred while at the Milwaukee Zoo also presents a potential risk to her. At age 40, it is questionable whether she is capable of a successful pregnancy. It is my understanding that her last two pregnancies ended in miscarriages and that her last successful pregnancy was in 2000 (Maisha). Apes do not go through menopause in the same manner as human females, so it is impossible to tell with certainty when their child bearing capacity has ended. Nonetheless, pregnancy creates a health risk for a bonobo in the last one-fifth of her life span.

18. Moving Matata and Maisha temporarily, pending a decision that could require a second move in the relatively near future, would cause them unwarranted harm and risk.

19. I am familiar with the Great Ape Trust facilities and the standard of care provided to the bonobos that reside there. Matata and Maisha live in excellent conditions and are cared for by a knowledgeable and dedicated staff. Continued residence at the Trust presents no danger to them and is, in fact, the best living arrangement for their long-term welfare.

Dated this 27th day of July, 2010.

Bobby Brown

Bobby Brown

STATE OF ALABAMA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Bobby Brown, who acknowledged himself and that he being authorized, executed the foregoing instrument for the purposes therein contained, by signing the name of the State of Alabama by himself as Bobby Brown.

Karla Meadover
NOTARY PUBLIC
In and For the State of Alabama

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Mar 20, 2011
BONDED THRU NOTARY PUBLIC UNDERWRITERS



IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

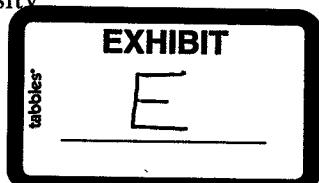
IOWA PRIMATE LEARNING)
SANCTUARY d/b/a GREAT APE TRUST) Case No. 10-552
)
Plaintiff,)
)
v.)
)
ZOOLOGICAL FOUNDATION OF)
GEORGIA, INC. d/b/a ZOO ATLANTA,)
DEMOCRATIC REPUBLIC OF CONGO,)
JAPAN MONKEY CENTRE INSTITUTE)
AND MUSEUM OF PRIMATOLOGY, and)
SUE SAVAGE-RUMBAUGH, Ph.D.,)
)
Defendants.)
)
STATE OF IOWA)
)
COUNTY OF POLK)

AFFIDAVIT OF
DR. SUE SAVAGE-RUMBAUGH
IN OPPOSITION TO
ZOO ATLANTA'S APPLICATION
FOR APPOINTMENT OF
RECEIVER

EMILY SUE SAVAGE-RUMBAUGH, Ph.D., under penalty of perjury, attests as follows:

1. I am Scientist with Special Standing at the Iowa Primate Learning Sanctuary, d/b/a Great Ape Trust ("the Trust"), and I am a resident of the State of Iowa. From 2004 to 2006, I was employed at the Trust as a Research Scientist continuing my lifelong study of the bonobos that reside there. From 1998 to date, I have been collaborating with William Fields, the Trust's Director of Operations, on the study of bonobo language, culture and social habits.

2. I have been studying ape and bonobo language and behavior since 1975, shortly after I received my Ph.D. from the University of Oklahoma. From 1975 until 1980, I was a Research Scientist at the Yerkes Center for Primatological Research of Emory University



(“Yerkes”). Thereafter, from 1980 until 2004, I was a Professor of Biology at Georgia State University’s Language Research Center (“LRC”).

3. I have known, studied and cared for Matata, one of the two bonobos that is the subject of the Action and of Zoo Atlanta’s pending receivership motion, almost continuously since I first encountered her in or about 1975 while working at Yerkes. I became the lawful owner of Maisha when he was born to Matata and his sire, P-suke, who I owned at that time, at Georgia State University in May 2000. Both Matata and Maisha continue to reside under the protection of the Trust here in Des Moines, Iowa. I thus am fully familiar with the facts and circumstances giving rise to this Action. The facts alleged herein are based on personal knowledge, except in those few instances where they are alleged upon information and belief.¹ I submit this Affidavit in opposition to Zoo Atlanta’s Application for Appointment of Zoo Milwaukee, an interested party, as Receiver.

4. I understand that on two or more occasions beginning in or about September 2008, Zoo Atlanta, on the pretext that it owns both Matata and Maisha and had merely loaned them to the Trust, has requested that the Trust transfer custody of Matata and Maisha to the Milwaukee Zoo, ostensibly for breeding purposes but also inevitably to display them to the general public for an admission fee; and that the Trust has declined to do so. I understand that, because at least as of 2004, I remained the lawful owner of Maisha, I was named by the Trust as a Co-Defendant/Co-Claimant in the Action. Further, I understand that the Action seeks a determination as to the current rightful owner or owners of Matata and Maisha, respectively, as among several claimants: Zoo Atlanta, the Democratic Republic of the Congo (“DRC”), the

¹ Attached as Exhibit 1 and 2 are true likenesses of Matata and Maisha.

Japanese Monkey Centre (“JMC”), and your Affiant, as well as plaintiff, the Trust.² I further understand that Zoo Atlanta has filed an interim motion requesting the appointment by the Court of a receiver, purportedly for the purpose of safekeeping of the two bonobos, pending a final determination as to ownership, and that, curiously, it has nominated for this purpose the Milwaukee Zoo, which upon information and belief, is not impartial and in actuality has been the principal advocate since in or about 2007 for the permanent relocation of Matata and Maisha from the Trust to that very same Zoo, for breeding and display purposes, or for export to Japan. Zoo Atlanta’s application, if granted, would require the temporary relocation of Matata and Maisha from the Trust to the Milwaukee Zoo; however, as explained below, that would cause permanent damage to the bonobos and to the Trust’s bonobo research program, hereinafter discussed.

5. There is a 35-year history to the scientific study and nurturing here, in the United States, of Matata. Even a temporary transfer would interrupt and cause incalculable injury to our ongoing ape-language and behavioral research program at the Trust. Transfer of these bonobos away from the non-invasive, nurturing research environment in which they have lived and thrived all of their lives to a public zoo even temporarily, would, in my professional judgment, cause them irreparable harm physically and emotionally. Zoo Atlanta concedes in its Answer to the Complaint that the bonobos are “priceless.” Their death or ill-health resulting from premature removal could well trigger major litigation over monetary damages, which is a needless risk.

² I was served with the Complaint in this Action on May 27, 2010. Because of the demands placed on me by the birth in June 2010 of a new bonobo, Teco, Matata’s granddaughter, at the Trust, and because of the intervening necessity to respond to Zoo Atlanta’s instant motion to appoint Zoo Milwaukee as receiver, I have stipulated with representatives of the Trust to have my counsel enter an appearance on my behalf and to respond to the Interpleader Complaint on or about August 6, 2010.

Conversely, if they are bred by Milwaukee in the interim, as Zoo Atlanta's application suggests might occur, litigation over ownership of any of their issue would ensue if Zoo Atlanta's ownership claim is ultimately rejected by the Court.³

6. Certain factual premises of Zoo Atlanta's motion are incorrect: a. contrary to assertions in the motion papers, in fact, both your Affiant and DRC, since the filing of the receivership motion, have signified to the Court their keen interest in the bonobos and their opposition to the receivership motion; b. in fact, DRC disputes Zoo Atlanta's claim to ownership of Matata, and your Affiant and the Trust collectively contest Zoo Atlanta's claim to ownership of Maisha; and c. Matata, an endangered species, from the Congo is lawfully in the country only so long as she is the subject of non-invasive scientific research; and it is my opinion and belief that sending her to Zoo Milwaukee and for Zoo Milwaukee to house her there and display her would be a violation of her importation status under the U.S. Endangered Species Act.

7. I became the owner of Maisha when he was born to Matata in May 2000. Maisha was sired by P-suke, a male bonobo that was gifted to me on October 20, 1999 by the Japanese Monkey Centre. According to the "Agreement on Transfer of Ownership of P-Suke and Nyota (Complaint, Exhibit D), ownership of P-suke (and his son, Nyota) was being transferred to me, for ape-language research purposes, by JMC:

³ Moreover, even the scientists at Zoo Atlanta and Zoo Milwaukee who are advocating for removal must concede that Matata and Maisha must be moved in tandem (as the Application requires) so that Matata, the mother and matriarch of her family, would have the protection of her own son among unfamiliar bonobos at Milwaukee Zoo; therefore, particularly since the ownership history of Matata and Maisha is very different, certainty regarding the ownership of both, rather than merely one or the other, of the bonobos should precede any transfer of them, if transfer is required. .

"in recognition of the profound significance of [Affiant's] ape-language research work to all humanity, her unwavering dedication to the welfare, care and protection of the bonobos in her charge, her deep understanding of the nature of the individual bonobos and how best to attend to their needs, desires and fears, and her commitment to the preservation of the precious species" [i.e., bonobos] (emphasis added).

8. Because Maisha was the offspring of Matata and P-suke, as the owner of the sire he became my property at birth (DRC has never asserted ownership of Matata's offspring in the United States.)⁴

9. Upon information and belief, Matata remains the property of the DRC, not Zoo Atlanta. There can be no doubt, and Zoo Atlanta has to the best of my knowledge nowhere questioned, that Matata was the property of Zaire, now DRC, in 1974-75 when she was captured in the wild at age 6 or 7 and sent to the United States by the Government of Zaire pursuant to a loan agreement with the U.S. National Academy of Sciences. The objective of the loan agreement was to determine whether or not *Pan paniscus* -- bonobos -- was a distinct species with a different hormonal profile than *Pan troglodytes* -- chimpanzees. This initiative was undertaken by NAS. Upon information and belief, special dispensation was received (by NAS) to remove an individual from a species population endangered in its country of origin, and, further, this authorization was given with the understanding that, at a time to be determined, Matata would be returned to Zaire (today, the DRC) and that any of her offspring would remain in the United States. Thus, Matata remained the exclusive property of the Congolese government. A complete eyewitness account to this early history of Matata is provided in Chapter 14 of "*The Pill, Pygmy Chimps and Degas' Horse*" (Basic Books, 1992), by Dr. Carl

⁴ I subsequently donated ownership of Maisha to the Trust in 2004 (see Complaint, Exhibit G).

Djerassi, Stanford University, an official with the National Academy of Sciences who was involved with this initiative. Dr. Djerassi provided a letter to my counsel, William Zifchak, Esq., dated November 7, 2008, confirming his understanding that Matata remained the property of the DRC, and that letter is attached as Exhibit 3 hereto. Matata has been under the care and observation of your Affiant since in or about 1975, and, as noted, Maisha has also been under your Affiant's care and observation since his birth in 2000.

10. I have had regular contact since 2004 with Dr. Mwanza Ndunda, the Secretary General of DRC's Center of Research in Ecology and Forestry, including in connection with Zoo Atlanta's effort initially in the Fall of 2008 to effect the transfer of Matata and Maisha to Zoo Milwaukee. Dr. Ndunda has represented uniformly to me that DRC has never abdicated its ownership rights in Matata. When I first started studying Matata at Yerkes it was my understanding that she was in the U.S. on loan from Zaire. I have been associated with Matata since Yerkes, and at no time has anyone asserted or claimed to my face, or to my knowledge, that DRC had transferred its ownership rights in Matata to any person or institution.

11. I am not aware of any colorable evidence that Zaire or DRC ever transferred ownership or donated Matata, to Zoo Atlanta, to Yerkes or to any other entity or person in the United States. (The purported agreement whereby Zoo Atlanta acquired ownership of Matata and Maisha) from Yerkes on April 25, 2000 (Complaint, Exhibit C) presupposes that Yerkes had acquired a legally cognizable ownership interest in Matata from DRC or Zaire.) I also note from personal knowledge that Matata has never been housed at Zoo Atlanta or cared for by their staff, or indeed housed or cared for by any zoo in the United States.

12. Zoo Milwaukee is not a disinterested party to this Action. Dr. Gay Reinartz, who heads up the Bonobo Species Survival Plan ("SSP") in the United States, is affiliated with Zoo

Milwaukee. Dr. Reinartz is a geneticist whose principal interest in the bonobos is their breeding and survival, and not research on their language capabilities. Dr. Reinartz has been advocating for the transfer of Matata and Maisha to Zoo Milwaukee for at least 2 years.

13. Furthermore, Dr. Reinartz and I have different views regarding the display and breeding of captive bonobos. Decisions regarding captive apes by the SSP have been without regard to their cultural and kinship needs and the significance of these variables in cross generational propagation. I disagree with Zoo Atlanta's suggestion that there is an urgency to breed Matata. To the contrary, relocating Matata is very risky at her age. Pregnancy in a strange location with other bonobos she does not know, would be extremely difficult and risky. Unless it is certain that Zoo Atlanta owns Matata, this would be an irresponsible action on the part of a purportedly impartial Receiver, because, among other things, of the ownership battle it would precipitate.

14. Matata is the last survivor of five bonobos lent to the United States by Zaire in 1975 expressly for research purposes, and certainly not for display at a public zoo such as the Milwaukee Zoo. I have been continuously engaged in the non-invasive research intended by the original loan of Matata to the United States with Matata since 1978, Maisha since his birth in 2000, and other bonobos.

15. Specifically, beginning in 1980, I worked with Matata and especially her world-famous adopted son, Kanzi, at Yerkes, to study their compatibility to assimilate and even communicate in human language. In 1996 I published Kanzi: The Ape at the Brink of the Human Mind, the first of many books on the bonobos, detailing my findings. I have published dozens of scholarly articles on the subject of ape-language.

16. I dispute categorically the assertion in Zoo Atlanta's motion papers that Matata and Maisha have received improper care at the Trust. In fact their care has always exceeded the standard required by zoological gardens. The Trust (and previously Georgia State University) is under the guidance and direction of a local Iowa Animal Care and Use Committee ("IACUC"), monitored by the federal government to insure the highest standard of care for all the apes. The Trust is visited several times a year by this group of individuals - who closely oversee all animal care and use protocols and review them regularly. The IACUC committee is staffed by scientists, by teachers, by laypersons, and by veterinarians. The standards imposed by the IACUC are greatly in excess of those imposed by the USDA, which is the only federal agency to inspect zoological gardens. The USDA also inspects the Trust. The IACUC and the USDA ratings received by the Trust are among the highest in the United States. The Trust has a far higher animal care staff ratio to the size of its ape population than any extant zoological society. There are currently 4 fulltime staff, and 4 three quarter time staff, caring for the bonobos.

17. In 2003, Mr. Ted Townsend, the moving force in the creation of the Great Ape Trust, offered me the opportunity to move the bonobos and relocate my research efforts, to Iowa. I readily did so, and we entered the Transfer Agreement (Complaint, Exhibit E). It is my understanding that by that Agreement I transferred my lawful ownership in Maisha to the Trust.⁵ That certainly was my intention at that time.

⁵ In the unlikely event that this Court were to determine that the Transfer Agreement was somehow invalid or did not affect a lawful transfer of Maisha, then of course Maisha would remain my property, not that of Zoo Atlanta, because she is the offspring P-suke, who I owned when Maisha was born. If so, I would continue to oppose any transfer of Maisha away from the Trust, to a zoo.

18. Matata is both elderly and precious. Matata is the only female in captivity who was NOT brought in as a baby. Thus she is the only standard-bearer of the wild culture, including, we scientists now suspect, a complex language and set of kinship rules, mating strictures and property assignment. She has passed these on as best she can and lives now in a family created through her own reproductive efforts across nearly 42 years. She is the aging matriarch -- highly regarded and deeply loved by all. Matata's current family consists of 5 other bonobos who are directly related to her plus her adopted son Kanzi who she raised. Moving her to a new facility, with unrelated bonobos, will place a great deal of stress on her. If she must leave her family, at the age of 42, it will be emotionally difficult for her as well as for her family which remains behind. Matata has never resided at the Atlanta Zoo, or been cared for by its staff, nor has the Atlanta Zoo ever cared for any bonobos, thus it has no knowledge or experience of the requirements of the species, or the specific individual bonobos whom it is seeking to house elsewhere. Upon information and belief, neither caretakers nor officials from Atlanta Zoo have ever traveled to the Trust to see the bonobos housed there. Thus their recommendations regarding "what is best for her" -- to be apart from the humans she has come to know and trust and to be apart from the family she has raised - are not based on any personal knowledge of her and are highly suspect.

19. There are numerous risks associated with moving Matata to the Milwaukee Zoo as a temporary receiver including: risks to her health associated with her physical transfer; risks to her well-being from being separated for the first time from virtually her entire family in captivity and placed on display, at a strange location, for the first time in her life; risks to her well-being should Milwaukee Zoo be tempted to induce her to breed while in its charge; and the

potential further risks to her safety and health were she to be returned to the custody of the Trust or shipped to yet another location, once this Court resolves the issue of ownership

20. Maisha, has never been apart from the family in which he was born and raised, and his father, P-suke, was owned by me and transferred to the Trust, on the promise that he and all of his offspring, including Maisha, would be allowed to remain at the Trust for life. He faces similar risks associated with physical transfer, separation from family, being placed on display, and repetitive moves if he is moved temporarily to the Milwaukee Zoo.

21. Should Matata and Maisha be transferred to Milwaukee and should they survive the anesthesia, the introduction to a new environment, a new diet and other, potentially hostile bonobos, as well as the psychological distress of the transfer; the current research program will have been disrupted. In addition, they will have endured experiences that are commonly regarded as highly stressful and they will not be the same kind of research subjects when they return because of these experiences.

22. The essential research on which the DRC's agreement to loan Matata to the United States was premised, is continuing full bore at the Trust. There can be little if any risk to Matata by retaining her in that research environment pending the final outcome of this case. Conversely, any relocation will inflict harm upon the ongoing research program and any future planned research program, making it difficult to include them in research grants. They have served, and continue to serve as the 'control population' for the experimental group of bonobos who are exposed to language. For research purposes, it is essential that the control population live in a world that is similar except for the specific experimental variables under study.

23. In summary, were Matata or Maisha for any reason to suffer injury or death as a consequence of their temporary transfer to Milwaukee Zoo, the loss would be irreparable and at this stage of the Action, where their ownership is hotly contested, is wholly unjustified.

Dated this 30th day of July, 2010.

151

Sue Savage-Rumbaugh, Ph.D.

Sue Savage-Rumbaugh, Ph.D.

STATE OF IOWA

§

COUNTY OF POLK

2008

BEFORE ME, the undersigned authority, personally appeared Sue Savage-Rumbaugh, Ph.D., who acknowledged herself and that she being authorized, executed the foregoing instrument for the purposes therein contained, by signing the name of the State of Iowa by herself as Sue Savage-Rumbaugh, Ph.D.

NOTARY PUBLIC
In and For the State of Iowa

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

IOWA PRIMATE LEARNING
SANCTUARY d/b/a GREAT APE
TRUST,

Plaintiff,
v.

ZOOLOGICAL FOUNDATION OF
GEORGIA, INC. d/b/a ZOO ATLANTA,
DEMOCRATIC REPUBLIC OF CONGO,
JAPAN MONKEY CENTRE INSTITUTE
AND MUSEUM OF PRIMATOLOGY,
and SUE SAVAGE-RUMBAUGH, Ph. D.,

Defendants.

Case No. 4:10-cv-00052

AFFIDAVIT OF
BENJAMIN BECK

I, the undersigned, Benjamin Beck, do hereby depose and state as follows:

1. I have, since receiving my Ph.D. from the University of Chicago in 1967 been involved in academic, research, professional, and policy related work involving great apes.
2. I am a member of the American Zoo and Aquarium Association (“AZA”) and worked at the National Zoological Park, Smithsonian Institution from 1983 through 2003 in various capacities, including: Research Primatologist; Curator; and Assistant and Associate Director for various programs. Prior to that time, I worked as Research Curator and Curator of Primates at the Chicago Zoological Park from August 1970 – February 1982.
3. As Chair of the American Association of Zoos and Aquariums, Great Ape Taxon Advisory Group from 1998 to 2001; as a member of the AZA’s Orangutan Species Survival Plan from 1984 – 1998; and as a member of the Gorilla Species Survival Plan from 1988 to 1998, I



have been involved in recommending and planning literally hundreds of inter-institutional moves of great apes.

4. As a curator in two major accredited zoos from 1971 to 1990, I personally scheduled, supervised and in some cases accompanied inter-institutional moves of dozens of great apes.

5. I serve as the lead editor of the International Union for Conservation of Nature's ("IUCN's") *Best Practice Guidelines for the Re-Introduction of Great Apes*, which include detailed transport protocols.

6. Transporting apes is stressful and dangerous for the apes, as well as expensive. Therefore, it is common knowledge that the number, length and duration of moves should be minimized. For example, there have been cases where an ape has been scheduled to move from institution X to institution Y, but Y is not yet ready to receive the ape and X feels it must ship the ape. The option of temporary shipment to institution Z becomes attractive in such cases, but is never recommended before pressuring X to hold the ape for a while longer and/or pressuring Y to accelerate its preparations to receive the ape. Specifically, it is conventional practice to *make all efforts to avoid temporary housing and extra shipments*.

7. It would run counter to best husbandry practice to move an ape from a good facility to another while awaiting a decision that might dictate a second move. In such a case, the ape should remain at the first facility until the decision has been made.

8. Matata and Maisha are well cared for at the Great Ape Trust and are in no danger of any kind. Causing them to move pending the determination of their ownership, with the inherent possibility that they will have to be moved again, would cause them unwarranted stress and would be harmful to them.

Dated this 23 day of July, 2010.



Benjamin Beck

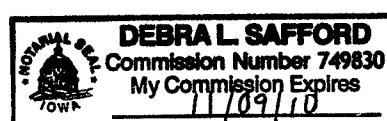
STATE OF Iowa _____

§
§
§

COUNTY OF Polk _____

BEFORE ME, the undersigned authority, personally appeared Benjamin Beck, who acknowledged himself and that he being authorized, executed the foregoing instrument for the purposes therein contained, by signing the name of the State of Iowa by himself as Benjamin Beck.

Debra R. Safford
NOTARY PUBLIC
In and For the State of IA



IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

IOWA PRIMATE LEARNING
SANCTUARY d/b/a GREAT APE
TRUST,

Plaintiff,

v.

ZOOLOGICAL FOUNDATION OF
GEORGIA, INC. d/b/a ZOO ATLANTA,
DEMOCRATIC REPUBLIC OF CONGO,
JAPAN MONKEY CENTRE INSTITUTE
AND MUSEUM OF PRIMATOLOGY,
and SUE SAVAGE-RUMBAUGH, Ph. D.,

Defendants.

Case No. 4:10-cv-00052

AFFIDAVIT OF
SALLY COXE

I, the undersigned, Sally Coxe, do hereby depose and state as follows:

1. I am the President of the Bonobo Conservation Initiative ("BCI"), an organization founded in 1997 and with headquarters in Washington D.C. and the Democratic Republic of the Congo, the mission of which is to promote conservation of the bonobo and its tropical forest habitat in the Congo Basin. BCI works collaboratively with the Congolese government and Congolese citizens to further its mission.

2. I have been involved in research and conservation activities related to bonobos since 1992, in both the United States and the Democratic Republic of the Congo.

3. In connection with my work, I have had the opportunity to study, observe, and interact with bonobos, both in captivity and in the wild.

EXHIBIT

tables

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4. Bonobos live in social groups led by matriarchs. They form strong attachments to their group members.

5. I first encountered Matata in approximately 1993 while working as a volunteer at the Georgia State University laboratory at which she resided. I have followed the progress of Matata and her family members, and the research in which they are involved, since that time.

6. Matata is the matriarch of the family group with which she resides at the Great Ape Trust ("Trust").

7. In addition to having close attachments to her family members, including her adopted son, Kanzi, Matata has a close attachment to Dr. Sue Savage-Rumbaugh, with whom she has worked since she was very young.

8. Removal of Matata and Maisha from the Trust would cause them substantial stress due to, among other things: the separation from their family and familiar human contacts; their need to adjust to a new social structure in which Matata would not be the established matriarch; and their placement in a zoo environment where they would be on display to members of the public.

9. Although bonobos are relatively peaceful as compared to other apes, placement of Matata and Maisha into a new social structure would almost certainly result in Maisha engaging in fights with other male bonobos as he supports his mother, Matata's efforts to establish her position in the social order of the new group.

10. Removal of Matata and Maisha from the Trust and placement of them at the Milwaukee Zoo on a temporary basis would be detrimental to their well-being and should be undertaken only if absolutely necessary and not on a temporary basis.

Dated this _____ day of _____, 2010.

lsl
Sally Coxe

STATE OF _____ §
§
COUNTY OF _____ §

BEFORE ME, the undersigned authority, personally appeared Sally Coxe, who acknowledged herself and that she being authorized, executed the foregoing instrument for the purposes therein contained, by signing the name of the State of _____ by herself as Sally Coxe.

NOTARY PUBLIC
In and For the State of _____

Ms. Coxe is currently in the interior of the Congo and does not have access to a Notary. She will substitute a fully executed copy of this affidavit when she returns to the U.S.